

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
MIDLAND DIVISION**

**OBED JIMENEZ on Behalf of Himself
and All Others Similarly Situated,**

Plaintiff,

v.

**PACKERS PLUS ENERGY SERVICES
(USA) INC.,**

Defendant.

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Civil Action No. 7:16-cv-00107 RAJ/DC

AGREED MOTION TO TRANSFER VENUE

Plaintiff Obed Jimenez (“Plaintiff”) and Defendant Packers Plus Energy Services (USA), Inc. (“Defendant”), jointly and in agreement, hereby move this Court to transfer this case to the United States District Court for the Southern District of Texas, Houston Division (“Houston Division”) for the following reasons:

1. Transfer is necessary because the Parties desire to consolidate this case with *Timothy Crumb v. Packers Plus Energy Services (USA) Inc.*, No. 4:16-cv-00662, pending before Judge Lee Rosenthal in the Houston Division. These cases are suitable for consolidation because both cases involve the same claims seeking overtime under the Fair Labor Standards Act (“FLSA”) and state law and both cases involve the same potential class group. It would be inefficient and ineffective to permit these cases to exist as separate matters as they concern the same subject matter, same law, and same exact group of employees. As all counsel are located in Houston, and as Defendant’s United States headquarters is in Houston, it is most efficient for the matters to be handled in the Southern District of Texas. All parties to both cases agree to this transfer to effect these judicial efficiencies.

2. In order to effect this result, this lawsuit must first be transferred to the Southern District of Texas. The cases may be consolidated only after transfer to that district.

3. Counsel for the *Crumb* plaintiffs, Richard (Rex) Burch, has agreed to the filing of this motion to transfer and the cases' ultimate consolidation in the Houston Division.

A. Transfer of venue is proper under 28 U.S.C. §§ 1404(a) and (b).

4. The Parties are agreed that this transfer is for good cause. Moreover, good cause exists to transfer this case to the Houston Division because (1) the case could originally have been brought in the Houston Division (where Defendant has its U.S. headquarters); (2) the convenience of parties and witnesses will be favored by the transfer; and (3) the transfer is in the interest of justice because it will ultimately allow a consolidation of this case with *Crumb* under Rule of Civil Procedure 42(a). 28 U.S.C. 1404(a); *In re Volkswagen of Am., Inc.*, 545 F.3d 304, 315 (5th Cir. 2008). For the foregoing reasons and in the interest of justice, this case should be transferred to the Houston Division.

B. The proposed consolidation will be proper under Rule 42(a).

5. As stated above, this agreed transfer is necessary for the *Jimenez* and *Crumb* cases to be consolidated in the Houston Division. *Asset Funding Group Investments Fund 2, L.L.C. v. Lexington Ins. Co.*, No. 07-426-A, 2007 WL 4163465, at *3 (M.D. La. Nov. 20, 2007) ("Rule 42 is inapplicable and the cases may not be consolidated" until both transferred into the same judicial district). The proposed consolidation between the *Jimenez* and *Crumb* cases would ultimately satisfy the factor test for consolidation under Federal Rule of Civil Procedure 42(a) and Fifth Circuit precedent.¹ Therefore, good cause exists for the ultimate consolidation of these cases.

¹ See *Russo v. Alamosa Holdings, Inc.*, No. 5:03-CV-289-C, 2004 WL 579378, at *1 (N.D. Tex. Feb. 27, 2004); *Rodriguez v. Torres*, No. B-04-036, 2004 WL 2952612, at *1 (S.D. Tex. Nov. 22, 2004) (both citing

CONCLUSION

For all the foregoing reasons and in the interest of justice, the Parties jointly request transfer of this case to the Southern District of Texas, Houston Division.

Respectfully submitted,

/s/ Don J. Foty

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Frazier v. Garrison I.S.D., 980 F.2d 1514, 1531–32 (5th Cir. 1983) (enumerating factors)). *Jimenez* and *Crumb* share common parties; common issues of law and fact; and there is no risk of prejudice or possible confusion if the cases are consolidated; on the contrary, the consolidation will promote judicial efficiency. *Id.* Critically, the proposed consolidation would conserve judicial and party time and monetary resources.

CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2016, I electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all CM/ECF participants of record.

/s/ Andrea M. Johnson

Andrea M. Johnson